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SUBJECT: COMMISSION ON INTEGRITY WORKING UPHILL IN HILLAH

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¶1. (SBU) Summary: The Babil branch of the Commission on Integrity is striving to improve anti-corruption enforcement in the province against a tide of legal constraints and lack of public confidence. The office has processed hundreds of cases since 2006, of which around a quarter were dismissed under last year's Amnesty Law. Countless other corruption cases are omitted from official statistics because of the non-transparent utilization of Article 136(B) of the Iraqi criminal code, which enables a minister to block criminal cases against any ministry employee at will. These legal obstacles to COI's efforts likely explain the dearth of investigations and/or prosecutions against government officials in the province for corruption-related violations, as well as the Babil public's lack of faith in Iraqi government anti-corruption efforts, as revealed in a late February poll by a non-partisan Hillah legal newspaper and working groups at a PRT-sponsored business environment conference. End Summary.

MOST CASES COORDINATED WITH MINISTERIAL IG'S

¶2. (SBU) Babil PRT Econoff and Rule of Law Advisors met March 1 with Basim al-Kaisy, the head of the Babil office of the Commission on Integrity (COI). Al-Kaisy explained that his office had once had responsibility for other COI offices in south/central Iraq, but that in recent months COI Commissioner Judge Rahim al-Ugaili had appointed new office heads throughout the region to establish offices with a provincial, rather than regional, scope. Al-Kaisy explained that he was responsible for administrative coordination with Baghdad, overseeing 13 investigators in Babil.

¶3. (SBU) Al-Kaisy detailed the process by which COI handles its cases. He said the COI receives leads for corruption cases from a variety of sources, including its phone and email 'hotline,' complaints made in person, inspection reports from the Board of Supreme Audit, and newspapers. Once COI has suspicion of corruption, one of its investigators contacts the Baghdad-based Inspector General of the relevant ministry, who prepares a preliminary report for COI on the alleged corruption. Al-Kaisy said that COI investigators sometimes work with security officials embedded in the respective ministries to uncover additional information. A three-person committee at the Babil COI office, consisting of a lead investigator and two other investigators, then reviews the IG's report to determine whether there is sufficient evidence to pursue criminal prosecution. If the committee deems the case an administrative violation and

wishes to close the case, it must forward the dossier to Baghdad for review by COI Commissioner Judge Rahim who will then allow Babil to close the case or request further investigation. If, on the other hand, the committee decides that it is worth pursuing a corruption conviction, the Babil office of COI may forward the case to an investigative judge (IJ) in Babil. Al-Kaisy said all of his office's cases followed this procedure except in the case where the case involved a secret informant or a transfer from another court; in these instances, COI could forego coordination with the relevant IG and send its case directly to an IJ.

136(B) AND WEAK IG'S

UNDERCUT COI'S EFFORTS

¶4. (SBU) Al-Kaisy highlighted Article 136(B) of the Iraqi criminal code, which states a minister can block criminal cases against a ministry employee at will, as 'one of the main obstacles' to COI's work. Al-Kaisy described a case in which COI had received a tip about a government department head planning to bribe another government official. COI conducted an elaborate sting operation, in which it photographed the bribe taking place and confiscated a one million dinar (approximately USD 870) payment. Just as COI was preparing to arrest the suspect, the unspecified minister blocked the case from going forward and transferred the government official who had received the payment to al-Kut. In another case, al-Kaisy said, the Minister of Health blocked charges against 10 employees in his ministry. The impact at the provincial level of the abuse of 136(B), al-Kaisy indicated, was a loss of public confidence in

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the COI's ability to combat corruption.

¶5. (SBU) Al-Kaisy outlined other constraints to more effective anti-corruption enforcement in the province. He stressed 'the IGs' ineffectiveness is not taken seriously by their ministers.' Their independence is critical to the COI's effectiveness, al-Kaisy suggested, because of the requirement to coordinate COI investigations through IGs prior to submitting information to an IJ. He also said the continued delay in Council of Representatives' confirmation of COI Commissioner Rahim had weakened COI's credibility and effectiveness. One glimmer of hope was the relative safety in which COI investigators were able to function in Babil compared to Baghdad. Unlike Baghdad investigators, those in Babil did not need to worry on a daily basis about their personal safety in conducting their official duties, he said.

FEW CASES AGAINST HIGH RANKING OFFICIALS,

MANY AMNESTY LAW DISMISSALS

¶6. (SBU) Al-Kaisy provided Babil PRT with an unofficial record of COI's case log between 2006 and 2008 which revealed a large number of cases dismissed under the Amnesty Law and few cases going to trial, particularly for high level government officials. Some of the numbers, however, may overlap, notably the dismissals under the Amnesty Law. According to COI, of the 540 cases 'resolved' between 2006 and 2008, 178 were dismissed due to the Amnesty Law, 159 were transferred to other courts or

merged with other cases, 129 cases were closed, 30 were transferred to other COI branches, and 44 remain before criminal courts. 184 cases from 2006-2008 remain 'unresolved,' according to the COI statistics. While the data do not reveal the total number of cases that went to trial and for which a conviction was ultimately attained, they do outline the composition of detainees in Babil Province who were held in calendar year 2008.

Of the 94 individuals in custody, only two had held the rank of Director General or higher (one from the Ministry of Municipality and the other from the Ministry of Higher Education). Ministries with the most detainees in 2008 for corruption-related crimes were the Ministries of Municipality (24), Industry (12), Finance (10), Justice (8) and Health (8). Detainees from other ministries ranged from one to six.

PUBLIC HAS LITTLE FAITH

IN GOVERNMENT ANTI-CORRUPTION WORK

17. (SBU) In a February 26 business environment conference sponsored by Babil PRT (reported septel), two independent working groups of local business leaders identified corruption as one of the top five impediments to greater private sector development in Babil Province. In late February, Babil's Al-Meezan, an independent newspaper focused on legal issues, conducted a survey of perceptions of corruption in Babil province. While we do not know the methodology of the survey, the large sample size offers some degree of insight into the widespread public concern about the prevalence of corruption in the province and perceptions of government's inability to combat it. Of the 1000 participants (584 men and 416 women) surveyed, 921 revealed to al-Meezan that they believed corruption existed in a variety of government sectors. 730 had been personally subject to administrative corruption by a government civil servant. The offices considered most corrupt in Hillah were the real estate department of the Ministry of Justice (248 votes), the office of taxation (157), the Ministry of Health (155), the Babil municipal government (138), the police (147), and the Ministry of Education (110). Respondents cited weak enforcement of anti-corruption laws and the paucity of legal proceedings as the main enabler of corruption (621 votes), followed by lack of nationalism and pride in Iraqi civic institutions (265), followed by personal reasons (123). The entities and mechanisms deemed most likely to combat corruption were the media (300 votes), civil society (200), government oversight (180), and the independent anti-corruption agencies (80). With regards to the COI, 113 respondents deemed its work in battling corruption very important, 203 said it was important, and 684 said it was unimportant.

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